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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,503	07/06/2001	Lawrence W. Hu	GUID012CON	5237

24353 7590 03/14/2003

BOZICEVIC, FIELD & FRANCIS LLP  
200 MIDDLEFIELD RD  
SUITE 200  
MENLO PARK, CA 94025

EXAMINER

SMITH, JEFFREY A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 03/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/900,503

Applicant(s)

HU ET AL.

Examiner

Jeffrey A. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 December 0202.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-15,17-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6,14-20,24 and 25 is/are allowed.
- 6) ☒ Claim(s) 8-11 and 21-23 is/are rejected.
- 7) ☒ Claim(s) 12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 8-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Hancock (U.S. Patent No. 6,331,157 B2).

Hancock discloses (Fig. 1) a surgical retractor blade comprising a body (24), a channel, a curved rail (30), a plurality of slots (37).

The rail has a narrowed region which forms tabs (32) on a top portion.

The recitations "wherein said first end is adapted for attaching to a separated, complete drive mechanism" has been considered. However, such recitation does not patentably

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distinguish these claims from the structure disclosed by Hancock. This "wherein" clause does not move to further distinguish the structure recited.

***Claim Rejections - 35 USC § 103***

Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hancock (U.S. Patent No. 6,331,157 B2) in view of Brief (U.S. Patent No. 4,747,395).

Hancock does not disclose that the body comprises a polymer.

Brief, in a similar blade (col. 1, lines 4-7), discloses the use of polymeric material. It would have been obvious to one of ordinary skill in the art to have provided the body of Hancock to have comprised a polymeric material because of its known chemical inertness, compatibility with cell metabolism and ability to withstand repeated sterilizations (col. 2, lines 48-57).

***Allowable Subject Matter***

Claims 1-6, 14, 15, 16-20, 24, and 25 are allowable over the prior art of record.

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Claims 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments deposited 17 December 2002 have been considered but are not persuasive.

Applicant remarks that Brief merely discloses a polymer coating is not persuasive. Brief is relied upon not to show a coating or a body, per se, comprising polymer. Brief is relied upon for his more universal teaching of the advantages of employing a polymeric material in the intended environment (i.e. the human body). Brief recognizes and teaches that this sort of material is known for its chemical inertness, compatibility with cell metabolism and ability to withstand repeated sterilizations (as reported above). This teaching provides the skilled artisan the motivation to have modified the Hancock blade to have included a polymeric body.

Applicant remarks that Brief does not disclose a similar blade.

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The Examiner notes that his blades Brief discloses in a sufficiently similar environment to that of Hancock and is considered analogous art.

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

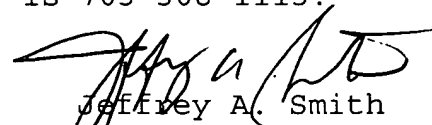
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Smith whose telephone number is 703-308-3588. The examiner can normally be reached on M-F 6:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-308-3691 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
Jeffrey A. Smith  
Primary Examiner  
Art Unit 3625

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March 10, 2003